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# THE CONTROL OF PUBLIC SERVICE CORPORATIONS IN DETROIT

BY DELOS F. WILCOX,

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Detroit has maintained an attitude of belligerency towards the public service corporations longer than any other great American city. Chicago was still hopelessly under the control of Charles T. Yerkes and the "gray wolves" in the city council when Mayor Pingree signed the first three-cent fare ordinance in Detroit. Tom L. Johnson was in those days a street railway magnate himself. It was from Mayor Pingree that he took his first lessons in the philosophy of low street car fares. In Detroit, Pingree is still a name to conjure with. The spirit of resistance to governmental control by private corporations has shown unusual persistency in the City of the Straits.

My readers should duly appreciate the privilege which I am about to give them of perusing the substance of an "unpublished" street railway ordinance, recently adopted by the Detroit common council and signed by the mayor towards midnight, the publication of which was enjoined by the federal district court before dawn. This ordinance was designed by the warlike leaders carried into power on the side of popular indignation against the Detroit United Railway.

The status of street railway franchises in Detroit is not peculiar. The franchises owned by the Detroit United Railway for streets within the limits of the city expire at about a dozen different times. For 179.1 miles of single track owned by the company prior to the most recent annexation of suburban territory, the franchises expire as follows:

July 13, 1906, approximately .....	8 miles
November 14, 1909, approximately .....	63.8 miles
June 17, 1910, approximately .....	3.8 miles
June 30, 1910, approximately .....	15.9 miles
December 31, 1915, approximately .....	15.8 miles
December 13, 1921, approximately .....	9.8 miles
December 4, 1924, approximately .....	59.6 miles

July 1, 1927, approximately.....	1.1 miles
May 14, 1928, approximately .....	2.7 miles
Sometime in 1934 (probably) .....	.5 miles
Claimed to be perpetual .....	5.3 miles

In 1907, with the annexation of the village of Fairview, on the eastern limits of the city, another franchise was "taken in" which had been granted only two years before for a period of thirty years. The various franchises now covering city streets were many of them originally granted by the town and village authorities of suburban districts which have since been annexed to the city.

Detroit is particularly fortunate among the cities of America in having a number of great diagonal thoroughfares leading to a common center. These naturally furnish the skeleton of the transportation system. On Woodland Avenue, the most important street of the city, is found the stretch of track where the company's franchise has already expired. This stretch of track is situated about three miles from the center of the city and a mile and a half inside the city limits. Most of the franchises on the main thoroughfares of the city expire in 1909 or 1910. About sixty miles of track are covered by a franchise running to 1924, the famous Pingree three-cent franchise. Over these sixty miles of street railway track, for the past thirteen years, transportation has been furnished at the rate of eight rides for a quarter from early morning till half-past seven in the evening, and at the rate of six rides for a quarter during the rest of the evening and the night.

One would naturally suppose, under such circumstances, that the city would be in a position to dictate terms to the street railway company. But all efforts to do so have hitherto been unavailing, principally because the city had no alternative under the constitution and laws of the state except to renew the company's franchises on such terms as the company was willing to give, or to grant a competing franchise to some other company on other streets.

### *The Hally Ordinance*

The "unpublished" ordinance to which I have referred is known as the "Hally Ordinance," the name being derived from Mr. P. J. M. Hally, chief assistant corporation counsel and confidential legal adviser of the present administration. The terms of

this ordinance are certainly novel and remarkable. *"On and after the acceptance of this ordinance,"* it runs, *"every street railway company, its successors or assigns, operating street railways in the City of Detroit, which operates any street cars on any street in which its right to operate streets cars has expired, shall operate all of its cars on all of its lines" upon the terms and conditions set forth in the ordinance.*

The first condition is that the operation of a single car on any street in which the operating company's franchise has expired "shall constitute an acceptance of the terms herein set forth." The ordinance provides a method for officially determining whether or not its provisions have been accepted by a street railway company. It is stipulated that the common council shall refer the matter to a committee, that five days' notice shall be given to the street railway company setting a time and place when the committee will hear evidence and an opportunity will be given to the corporation to be heard, and that upon the report of this committee the council shall "declare its findings." If the council declares "the fact of acceptance to be established, no other or further proceedings shall be necessary" to prove the acceptance.

The company accepting the ordinance in this manner is required to keep on sale on its cars at all times "tickets to be sold in strips or packages of five for fifteen cents;" each of these tickets is to be good for a single ride for any distance in either direction over the lines or roads operated or controlled by the company, and to entitle the passenger to a transfer good for a continuous ride over any connecting line or road operated, owned or controlled by the company. Cash fares are to be at the rate of five cents each. Passengers are to have the right to designate the point at which they desire to transfer. For two hours and a half in the morning, viz., from 5.30 to 8.00 o'clock, and for two hours in the evening, viz., from 4.30 to 6.30, the company is required to sell packages of tickets at the rate of ten for twenty-five cents, and such tickets are to insure the same privileges as cash fares or three-cent tickets.

The city is to do all the paving, both within and without the street railway tracks, but the company will have to keep its rails and roadbed in good condition, and keep the pavement between its tracks and for a space of eighteen inches on each side in repair until the street is repaved.

The company shall bind itself to change its routes at the request of the common council, and if any such change renders the tracks in any street unnecessary, to remove the tracks whenever directed so to do by the common council. Service, as to the kind and number of cars and the time between cars, is to be subject at all times to regulation by the council, "and the determination of this body shall be final and conclusive as to the regulations imposed." The company, during the enjoyment of its privileges in the streets, will be subject to such further rules or regulations as may from time to time be deemed necessary by the common council, and it is stipulated that the passage by the council of any such regulation shall be final and binding upon the company.

For the violation of any of the terms or conditions of the ordinance, the company will be required to pay into the city treasury the sum of \$1.00 a day for every car run.

Any violation of the ordinance or failure to comply with its provisions, or with any further regulations imposed by the council, may also be punished by a fine of not more than \$50, or in default of payment, by the imprisonment of the offender in the Detroit House of Correction for not to exceed three months. The company will continue to be subject to all ordinances, rules and regulations now in force in relation to the operation of street cars, except as modified by this ordinance. The property of the company, both real and personal, will be subject to taxation under the laws of the state. The corporation accepting the terms of the ordinance "shall continue to operate hereunder until otherwise ordered by the common council of the City of Detroit."

The company, when directed to do so, shall, from time to time, extend its service into territory that may have been annexed to the city, and shall perform the service upon the same terms and conditions that are binding within the city limits as they exist at the time the ordinance is accepted. The common council reserves the right to amend, alter or repeal the ordinance at any time.

Last summer, when Mayor William B. Thompson, after six months in office, had succeeded in getting the common council into a frame of mind where it was ready to pass the Hally ordinance, the bondholders of the Detroit United Railway applied to Judge H. H. Swan, of the United States District Court, for an injunction to prevent the common council from passing the ordinance, or the

Detroit United Railway from accepting it. Judge Swan was about to take his summer vacation, accordingly, he granted the injunction and tied the matter up for the summer. The city administration contended that it was not within the province of a federal judge to enjoin the common council from passing an ordinance. After many months' delay Judge Swan concluded that his action had been premature, and "lifted" the injunction. At the next meeting of the common council the ordinance was passed. The mayor stayed up that night to sign it, and the railroad attorneys and the judge stayed up still later to enjoin the city clerk from publishing it. Mayor Thompson and his advisers have been anxious that the "Hally Ordinance" should be tested on its merits. The preliminary injunction issued by the federal judge seemed to the city administration nothing but a wicked railroad scheme for delaying the main issue. Mayor Thompson will have to stand for re-election this year. He was elected in 1906 as a Democrat in a strongly Republican city on the promise that he would speedily secure lower street railway fares for the people. Anything that would delay his policies and make his administration barren of practical results would naturally tend to lessen his chances of re-election, tire out the people, and give the Detroit United Railway a better chance for getting favorable terms from the city.

#### *Pingree's Municipal Ownership Plan*

The street railway fight in Detroit has been an up-hill contest. The Detroit United Railway is one of the two great electric railway corporations of Michigan. In addition to its nearly two hundred miles of tracks within the Detroit city limits, the company owns and operates four or five hundred miles of suburban lines, running to Toledo, Jackson, Pontiac and other surrounding towns. When Hazen S. Pingree became governor of Michigan, after having been four times elected mayor of Detroit, he secured the passage of a bill by the state legislature authorizing the establishment of a street railway commission in Detroit, with power to purchase and operate the street railway system. This was in 1899. Mr. Pingree himself was appointed chairman of the commission. The Pingree commission at once entered upon negotiations for the purchase of the street railway lines. Professor Bemis, Professor M. E. Cooley

and other experts were employed to make a valuation of the physical property and unexpired franchises within the city limits. The experts reported that the physical property of the company was worth approximately \$8,000,000, and that the unexpired franchises were worth about \$8,500,000. The company offered to sell for \$16,800,000. The plan agreed upon was that the city should issue \$17,500,000 bonds against the property, \$700,000 of which was to be retained for making extensions and for other purposes. The bonds were to be taken by the then owners of the street railway system and were to be secured by a contingency franchise to operate for a period of forty-eight years in case the city defaulted on interest or principal. Excitement ran high, and the constitutionality of the street railway commission act was attacked in court. The supreme court of the state quickly handed down a decision ousting the commission, on the ground that the powers attempted to be conferred upon it by the legislature were incompatible with the provisions of the state constitution. In 1850, when the present constitution of Michigan was framed, the people were extremely anxious to put a check upon the activities of the state government in the matter of "internal improvements." Accordingly, a clause was inserted in the constitution adopted in that year to the effect that "the state shall not be a party to, nor interested in, any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the state of land or other property." The judges held that under this provision the Detroit United Railway system was an "internal improvement," and that, inasmuch as the state government itself could not lawfully take over such an enterprise, authority to do so could not be delegated to a municipality of the state. The court did not in this case specifically deny the power of the legislature to authorize a city to own and operate street railways wholly within the city's corporate limits, but ousted the commission because the act creating it assumed to give it jurisdiction outside the city.

#### *Plans for Changing the Constitution*

The plan of the Pingree street railway commission for municipal ownership having been thwarted by the courts, the people of Detroit turned their attention towards the state constitution. The legislature was importuned, session after session, to submit to the

people a constitutional amendment authorizing Detroit, or the cities of the state generally, to adopt the policy of municipal ownership, if that policy should be determined upon by vote of the municipal electors. These efforts to secure a constitutional amendment were unavailing. The "interests" are well organized in Michigan as elsewhere, and it is seldom that the legislature escapes from their control. Being unable to secure the desired constitutional amendment, the city determined to make a further test of its powers under the existing constitution. The corporation counsel, Mr. Timothy E. Tarsney, contended that without special legislative authority the city could, as an incident of its powers over the streets, construct and maintain street railway tracks, to be leased to a private company for operation. The common council was sufficiently impressed by this theory to appropriate \$10,000 for the purpose of laying enough street railway tracks to bring about a test of the city's constitutional rights. Soon after the appropriation was made, an injunction suit was brought to prevent the proposed track construction, and the case was taken to the courts for adjudication. The Wayne County Circuit Court, consisting of six judges, split even on the question of the city's right to build street railway tracks. An appeal was taken to the Supreme Court, where the case remained pending for many months.

Meantime, the people having become convinced that the present constitution was antiquated and ill-adapted to the needs of the present time, and seeing that the ordinary process of amendment had proved unavailing, voted to call a convention for a general revision of the constitution. The Detroit Municipal League had for several years been strenuously contending for municipal home rule on street railway matters. As soon as it was settled that a constitutional convention was to be called, the league urged that no new franchises should be granted or old franchises renewed pending the deliberations of that body. While affairs were in this condition, the city administration then in power was carrying on secret negotiations with the Detroit United Railway for a general "settlement" of the street railway question. Suddenly, like a bolt of lightning out of a clear sky, a remarkable franchise, upon which the city administration and the Detroit United Railway had agreed, was flashed upon the people of Detroit.



*The Codd-Hutchins Franchise*

There is nothing in the charter of Detroit to prevent the common council from passing any kind of a franchise that it pleases, but public opinion had been so deeply stirred during the Pingree régime that everybody in public life had for several years prior to 1906 been pledged to the referendum on any important franchise. Accordingly, Mayor Codd, in proposing the new franchise, which came to be known as the "Codd-Hutchins Franchise," linking together the names of the chief magistrate of the city and the general manager of the Detroit United Railway, made the ordinance the issue of his campaign for re-election. As a matter of course, and in fulfilment of pledges made, the proposed ordinance was to go to the people for approval or rejection. A remarkable campaign was carried on during the three months preceding the November election of 1906. The Detroit United Railway bought space by the half page or page in nearly all the daily and weekly papers and published a regular series of "Statements" in which it attempted to convince the voters that the franchise would be for their benefit. Indeed, the franchise had many attractive features. It proposed that all the company's franchises should expire together on December 4, 1924, leaving the city free at that time to handle the street railway question as a unit; it proposed a speedy extension of street railway lines into other districts which were sadly in need of street car service; it proposed the assumption by the company of the burden of paving between the tracks on all the lines, instead of only two-thirds of them, as under present ordinances; it proposed uniform rates of fare and universal transfers on all lines within the city limits. Cash fares were to be five cents each, and ticket fares were to be at the rate of six tickets for a quarter, except that during five hours of the day, including the morning and evening rush hours, tickets with transfer privileges were to be sold at the rate of ten for twenty-five cents. It was estimated that forty per cent of all passengers would ride during these five hours. Under the ordinance the city was to have the right to purchase the property at an appraised valuation at the expiration of the franchise. To emphasize the benefits of its proposition, the company put the proposed rates into effect for about two weeks prior to the election. The people of Detroit had

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the peculiar experience of being able to ride down town to their work in the morning and back at night for two and a half cents each way. Nevertheless, when the franchise came to a vote it was defeated by more than two to one, there being only 14,000 votes for it to 30,000 against it. The reasons for its defeat were several. In the first place, the ordinance involved the giving up of the eight-for-a-quarter tickets on the existing three-cent lines. Pingree's most precious legacy—the chief monument of his fame—was to be surrendered. It was in vain that the company argued that under the new rates transportation would cost practically the same on the average as it was already costing on the three-cent lines. In the second place, the people were incensed that their old enemy, the Detroit United Railway, should be spending thousands upon thousands of dollars to induce them to give it a franchise which, according to its argument, would be immensely profitable to the public. The company belied its arguments by its methods. In seeking to secure the adoption of this ordinance it was apparent that the company had entered into an offensive and defensive alliance with Mayor Codd in his campaign for re-election. The mayor campaigned for the ordinance, and the company campaigned for both the mayor and the ordinance. In the third place, the Detroit Municipal League and the anti-franchise committee, an impromptu organization established for the purpose, pointed out to the people that the ordinance was in many respects defective. Publicity of accounts was not provided for. No adequate control was given over future extensions. The rates of fare were calculated to increase rather than to relieve congestion at the rush hours. The company was excused from all taxes, except the two per cent gross receipts tax. As a result, the ordinance was overwhelmed, and the mayor who stood sponsor for it went down to defeat.

Meantime, preparation was being made for the constitutional convention, and the argument of the track-laying case was carried on before the Supreme Court. Early in 1907 the court decided that the "internal improvement" clause in the state constitution rendered even municipal construction of street railway tracks within the city limits impossible.

*The Constitutional Convention*

During the summer and fall delegates were chosen to the constitutional convention, which met at Lansing on October 22d last. The state legislature, manifesting the utmost anxiety to keep the constitutional convention wholly within the control of the dominant party of the state, and to hamper as far as possible the elements which had been asking for a progressive constitution, set the primaries at which delegates were to be elected in the middle of the "dog days." The result was a very light vote, and when the convention assembled in October, a railroad attorney, who was a notorious machine politician, was chosen to preside over its deliberations. The organization of the convention was almost completely in the hands of the railroad and reactionary interests. It soon developed, however, that in the body of the convention the progressives and the reactionaries had about equal strength. After long sessions and strenuous debates, considerable progress was made in drafting a modern constitution to take the place of the obsolete instrument of 1850. As finally agreed upon by the convention, the article relating to home rule and municipal ownership contains many interesting and important features.

"Subject to the provisions of this constitution, any city or village," says Section 23 of Article VIII, "may acquire, own and operate, either within or without its corporate limits, public utilities for supplying water, light, heat, power and transportation to the municipality and the inhabitants thereof; and may also sell and deliver water, heat, power and light without its corporate limits to an amount not to exceed twenty-five per cent of that furnished by it within the corporate limits; and may operate transportation lines without the municipality within such limits as may be prescribed by law: Provided, That the right to own or operate transportation facilities shall not extend to any city or village of less than twenty-five thousand inhabitants."

The most important limiting conditions attached to this general grant of power are the requirement that a three-fifths vote of the electors shall be necessary before municipal ownership can be undertaken, and the requirement that no bonds beyond the ordinary debt limit of the city shall be issued on account of any public utility, except bonds secured by the property of the utility alone,

coupled with a conditional franchise to run for a period of not exceeding twenty years. It is also provided that no public utility franchise "which is not subject to revocation at the will of the city or village" shall be granted, except upon a three-fifths affirmative vote of the electors. The right to a reasonable control of their streets, alleys and public places is specifically reserved to cities, and no person or corporation operating a public utility may use a highway or street without the consent of the duly constituted authorities of the city, village or township.

The new constitution containing these provisions will be submitted to the people of the state for approval or disapproval at the election next November. If the constitution is approved, it will mark a considerable advance in the policy of Michigan with reference to the control of public utilities, and will, it is thought, place Detroit in a position to deal more effectively with its street railway and other public utility problems than it has been able to do hitherto. The new policy outlined by the convention was shaped to a large extent by Professor John A. Fairlie, of the University of Michigan, who sat as a delegate from the district in which Ann Arbor is situated. Pending the adoption or rejection of the new constitution, the city administration will, no doubt, continue its merry war with the federal courts, and the "Hally Ordinance" will remain "unpublished" until its legality has been judicially determined. The chances appear to be that Mayor Thompson's present term will expire without his having been able to secure any definite judicial determination as to the constitutionality of his solution of the street railway problem.

The general policy which Detroit has followed with reference to the control of public utilities has been to depend upon competition. The history of street railway development has been much the same in Detroit as in other cities. Franchises were granted originally to several different companies, which by a series of combinations and consolidations have welded all the street railway lines into a single system. Nevertheless, this unified scheme still shows deep traces of competition. On one-third of the lines the rates of fare are different from the rates on the remaining two-thirds. While transfers are exchanged between all lines, a person riding on a three-cent line is compelled to pay a five-cent fare in order to get a transfer to a five-cent line. On two-thirds of the track

mileage the regular fare is still five cents, but workingmen's tickets are sold at the rate of eight for a quarter, good from 5.15 to 6.45 in the morning and from 4.45 to 5.45 in the afternoon.

### *The Telephone Situation*

The traces of competition are also found in other public utilities. No less than six telephone franchises have been granted, but one company has had a practical monopoly so far as actual operation is concerned. For the past two years, however, a new company, having succeeded to an old competing franchise granted by the common council, has been carrying on active operations, installing its plant and getting subscribers, in preparation for a competitive struggle with the Bell interests, which control the old company. Under the present law there is some question as to whether it is absolutely necessary for telegraph and telephone companies in Michigan to secure local franchises. But they have usually found it more convenient to do so in order to keep peace with the cities and villages in which they operate. The new constitution, if adopted, will remove the doubt by providing (Section 28 of Article VIII) that "no person, partnership, association or corporation operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any city, village or township for wires, poles, pipes, tracks or conduits without the consent of the duly constituted authorities of such city, village or township; nor to transact a local business therein without first obtaining a franchise therefor from such city, village or township." The general provision permitting municipal ownership does not apply, however, to telephone systems. Accordingly, no matter what policy Detroit may adopt with reference to street railways, gas and electric light and heating companies, there will be no possibility, if the new constitution is adopted, of the city's going into the telephone business. It is, therefore, to be expected, under the conditions now existing, that Detroit will have two telephone systems until such time as the disadvantages of competition have induced the companies to consolidate.

### *Electric Lighting*

The city has also tried competition in the electric lighting business, with the result that all of the active franchises heretofore

granted have fallen into the hands of two operating companies which are both owned by a single holding company and, therefore, operate in unison. When Mayor Thompson came into office on January 1, 1907, he immediately urged upon the common council the idea of having an investigation into electric lighting conditions, and the council finally consented to give the mayor a special appropriation and authorize him to secure the services of an electric light expert. Mr. H. H. Crowell, of Syracuse, was selected by the mayor for this work. In October, 1907, Mr. Crowell made an elaborate report on the history, rates, costs, etc., of the electric lighting industry in Detroit. He reported that the Detroit Edison Company had an outstanding capitalization of \$11,600,000; that this company owned the stock of the two operating companies and furnished them with current; that the two operating companies together had a total capitalization of \$3,560,000; that one of these companies paid a four per cent dividend in 1902, eight per cent dividends in 1903 and 1904 and no dividends whatever in 1905 and 1906, and that the other company paid eight per cent dividends yearly for the four years 1903 to 1906 inclusive. Mr. Crowell reported that "the fair valuation of the physical property and tangible assets reasonably required to carry on the business during the year ending December 31, 1906, was at least \$3,355,000. This estimate was made up without reference to generating plants, inasmuch as all current was supplied to the operating companies by the holding company. In a careful analysis of an extremely complicated system of rates, Mr. Crowell concluded that, on the whole, the company's charges and methods were fair to the different classes of consumers. The average price paid for all electrical current sold by the operating companies was 5.15 cents per kilowatt hour. He said that the companies followed a very liberal up-to-date policy in the maintenance of their plants, but that the prices charged by the holding company to the operating companies for the current furnished them was at least 16 2-3 per cent higher than the necessary cost, if the current were to be produced by the operating companies themselves. The operating costs of the company were excessive on account of this high cost of power, and on account of a certain amount of excessive investment in plant and on account of loss of current. He found, on the other hand, that these excessive costs had been taken out of net earnings and had not caused

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an increase of rates. He reported that, as compared with the rates charged in the twenty largest cities in the country, the Detroit rates were low. A number of suggestions and recommendations were made, and the report, when presented to the common council, was accompanied by an offer from the companies voluntarily to reduce their primary maximum rate of charge to residences and on their general lighting business from 16 cents per kilowatt hour to 14 cents. This reduction was to take place July 1, 1908, but was contingent upon the city's making an agreement not to worry the companies any more for a period of three years.

There is no question but that the electric light companies of Detroit under the able management of Alexander Dow, have built up a splendid plant, and have their business in excellent condition. How far this excellence has been due to the fact that Detroit for the past ten years has owned and operated a municipal plant for public lighting it is impossible to tell. When the movement for the public lighting plant was first started it met with vigorous opposition from the electric light interests, and a much-heralded controversy was carried on for several years afterwards between the public lighting commission and Mr. Dow upon the question as to whether or not the municipal plant was a success. An effort was made during the last session of the legislature to get a bill passed authorizing the city to engage in commercial lighting. This effort was unsuccessful, but if the new constitution is adopted the right will be guaranteed without further legislation. The citizens of Detroit are proud of their public lighting plant, and the evidence seems to bear out the claim that in approximately ten years' time the city has supplied itself with light and saved enough on the prices that it formerly paid to private companies to pay for the plant itself.

### *The Gas Supply*

The gas business in Detroit is a monopoly, with the exception that in the western part of the city, in a suburban district recently annexed, there is a competing company. The present gas franchise was granted in 1893 for a period of thirty years. It provided for a sliding scale of prices, beginning with a gross rate of \$1.40 per thousand cubic feet, and gradually coming down to a gross rate of 95 cents per thousand, with a discount of 15 cents per

thousand feet from the prices named, on all bills paid by the consumer within a month after they were rendered. The gradual reduction in price was based upon the increase of the total amount sold. The lowest rate of 95 cents gross or 80 cents net was to be reached when the company sold 800,000,000 cubic feet per annum for illuminating purposes. Under this franchise the company maintained two rates, one for illuminating gas and one for fuel gas, although the gas for both purposes was precisely the same. The difference in rates necessitated the maintenance of a double set of meters, however. In 1906 an ordinance was passed by the common council and accepted by the company amending the franchise so as to do away with the necessity of a double set of meters and a double set of accounts, and to reduce the price of illuminating gas to the minimum provided for in the old franchise. The schedule of maximum prices now in force is as follows: For the first 50,000 cubic feet used by any one consumer per month, 90 cents per thousand feet gross, 80 cents net; for the second 50,000 cubic feet used per month, 80 cents gross, 70 cents net; for the second 100,000 cubic feet used per month, 70 cents gross, 60 cents net; for all gas used in excess of 200,000 cubic feet per month, 60 cents gross, 50 cents net; for gas used for operating gas engines, 70 cents gross, 60 cents net. The company is authorized to lower these rates if it wishes to but having once lowered them, it may not raise them again without the consent of the common council. It is also provided that the company shall not "charge to or receive from any consumer a different rate than is charged to or received from any other consumer, and shall not in any way, by the granting of rebates or otherwise, discriminate among its customers" except as provided in the ordinance.

As soon as Mayor Thompson entered into office he set about having an investigation of the gas company, as well as of the electric light companies. He secured a special appropriation from the council and appointed experts to examine into the methods of the company and the quality and pressure of the gas furnished. As a result of this investigation, a regulating ordinance, drafted by the experts, was passed by the council and signed by the mayor. The company declined to accept it as a part of its franchise, but agreed to live up to it as a regulating ordinance. Under this measure the company is required to furnish gas of eighteen candle power,



having a heat value of not less than 600 British thermal units per cubic foot. The pressure at which gas may be delivered to the consumer's meter is limited to a minimum of one and one-half inches of water pressure, and a maximum of four and one-half inches. By the ordinance there was established the office of gas analyst and inspector, with a maximum salary of \$2,000. The ordinance requires that the gas analyst must have spent at least three years in the study of chemistry and physics in a college or university of recognized standing, and be skilled in the methods of gas analysis and testing. He is appointed for a term of three years by the commissioner of public works, but may be removed before the expiration of his term by the commissioner or the common council. He is required to test the gas supplied by the Detroit Gas Company at least once a day to determine its candle power. Frequent tests must be made to determine whether or not the gas contains forbidden impurities, and a record of pressure must be kept. Weekly and also monthly reports of the results of the tests are to be made to the common council. Under the gas franchise the city will have the right in 1923 to purchase the company's plant at a valuation to be fixed by a board of arbitration.

The city has tried competition even in the matter of central heating plants. Two heating franchises were given a few years ago. They are now controlled by the same interests.

In Detroit the common council has much larger powers than in many of the great cities of America. There is a tendency to make liberal use of these powers for the purpose of regulating the public service companies. The provisions of the charter under which the common council grants franchises and regulates public utilities are very brief and general: "Said council shall have power," says Section 170, "also to control, prescribe and regulate the manner in which the highways, streets, avenues, lanes, alleys and public places within said city shall be used and enjoyed." Section 197 says: "The common council shall have power to agree with any street railway company for the surrender of any rights of said company to operate its road on any street or avenue, on the condition that the common council shall not, without its consent, or during the existence of such rights, grant to any other company the right to maintain or operate its street railway on

such streets or avenues; Provided, That said agreement shall not prevent the common council from granting rights to operate roads on any streets crossing such street or avenue."

Upon this slender foundation, together with certain clauses in the general laws providing for the incorporation of the different classes of public service companies, rests the power of the Detroit common council to grant franchises and regulate public utilities.